

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2108-BR
)
 PAUL ALDRICH)

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2106-BR
)
 ROBERT T. ARRINGTON)

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2061-BR
)
 ROBERT PAUL BOYD)

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2037-BR
)
 PATRICK CAPORALE)

UNITED STATES of AMERICA)
v.)
FRANCISCO CASTREJON-ALVAREZ)) No. 5:08-HC-2101-BR

UNITED STATES of AMERICA)	
)	
v.)	No. 5:08-HC-2051-BR
)	
<u>DAVID GLOSHAY</u>)	
<hr/>		
UNITED STATES of AMERICA)	
)	
v.)	No. 5:08-HC-2183-BR
)	
<u>THOMAS HEYER</u>)	
<hr/>		
UNITED STATES of AMERICA)	
)	
v.)	No. 5:08-HC-2076-BR
)	
<u>WILLIAM JULIUS</u>)	
<hr/>		
UNITED STATES of AMERICA)	
)	
v.)	No. 5:08-HC-2099-BR
)	
<u>PHILIP JAMES KATON</u>)	
<hr/>		
UNITED STATES of AMERICA)	
)	
v.)	No. 5:08-HC-2070-BR
)	
<u>GARY LANGE</u>)	
<hr/>		
UNITED STATES of AMERICA)	
)	
v.)	No. 5:08-HC-2155-BR
)	
<u>MICHAEL RIEDEL</u>)	
<hr/>		
UNITED STATES of AMERICA)	
)	
v.)	No. 5:08-HC-2182-BR
)	
<u>RICHARD SAVAGE</u>)	
<hr/>		

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2107-BR
)
 RONALD SNEEZER)

UNITED STATES of AMERICA)
v.)
RICHARD WEISENBERGER)) No. 5:08-HC-2104-BR

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2060-BR
)
 ALFRED LEE WILSON)

UNITED STATES of AMERICA)
)
 v.)) No. 5:08-HC-2073-BR
)
 CHARLES YATES)

ORDER

In each of the above-captioned cases, which were held in abeyance by orders of the court, the respondents filed motions for their release “for the reasons provided in *United States v. Comstock*,” 551 F.3d 274 (4th Cir. 2009), on 9 January 2009, and on 22 or 23 January 2009, the government filed motions to stay the actions pending further appellate process.

By order filed 17 May 2010, the United States Supreme Court issued an opinion in United States v. Comstock, No. 08-1224, 560 U.S. ____ (2010), which

conclude[d] that [§ 4248] is a “necessary and proper” means of exercising the federal authority that permits Congress to create federal criminal laws, to punish their violation, to imprison violators, to provide appropriately for those imprisoned, and to maintain the security of those who are not imprisoned but who may be affected by the federal imprisonment of others.

(Slip Op. at 22.) Accordingly, the respondents' motions for release are DENIED.

However, the Supreme Court emphasized that its holding was limited to Congress' power to enact § 4248 under the Necessary and Proper Clause. Notably, the penultimate paragraph of the majority opinion states:

We do not reach or decide any claim that the statute or its application denies equal protection of the laws, procedural or substantive due process, or any other rights guaranteed by the Constitution. *Respondents are free to pursue those claims on remand, and any others they have preserved.*

(Id. (emphasis added).)

Accordingly, the government's motions for stay are likewise DENIED, and the court hereby lifts any stay or abeyance ordered in the above-captioned cases, to allow respondents to either proceed with additional constitutional challenges, or evidentiary hearings as they see fit.

This 14 June 2010.



W. Earl Britt
Senior U.S. District Judge

usa/4248/tec